

Revised 03/06 WDNY

22 CV 0151-V

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A CIVIL COMPLAINT IN FEDERAL COURT
(Non-Prisoner Context)

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name of Plaintiff: **NOTE:** *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application or the only plaintiff to be considered will be the plaintiff who filed an application.*

JOACHIM SYLVESTER

-vs-

B. Full Name(s) of Defendant(s) **NOTE:** *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. Add a separate sheet, if necessary.*

1. <u>ANTHONY ANNUCCI, COMMISSIONER</u>	4. <u>N. NAIDA. CORR. OFFICER</u>
2. <u>A. RIPLEY, CORR. OFFICER</u>	5. <u>LT. SCHADEWALD</u>
3. <u>K. RAMIREZ, CORR. OFFICER</u>	6. _____

2. STATEMENT OF JURISDICTION, VENUE and NATURE OF SUIT*All of these sections MUST be answered*

Identify the basis for federal Court jurisdiction over your claim, such as that the United States government is a party to the action, all the parties reside in different states and therefore you claim diversity jurisdiction, or the claim presents a federal question or arises under federal law.

A. Basis of Jurisdiction in Federal Court: 42 USC, §§ 1983, 1985(3), 1981(a), and pendent jurisdiction over state law claims

State why the Western District of New York is the proper venue for this action, such as that your claim arises in or the defendant resides in the 17 westernmost counties of New York State.

B. Reason for Venue in the Western District: Plaintiff resides in Western District of New York and material events occurred therein.

Identify the nature of this action, such as that it is a civil rights claim, a personal injury or personal property (tort) claim, a property rights claim, or whatever it is.

C. Nature of Suit: civil rights action to recover damages and seeking equitable relief and raising pendent state law claims.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name of First Plaintiff: JOACHIM SYLVESTER

Present Address: 1818 Niagara Avenue, Niagara Falls, New York 14305

Name of Second Plaintiff: _____

Present Address: _____

DEFENDANT'S INFORMATION NOTE: To list additional defendants, use this format on another sheet of paper.

Name of First Defendant: ANTHONY ANNUCCI, Commissioner

Official Position of Defendant (if relevant): Commissioner

Address of Defendant: 1220 WASHINGTON AVE #9, ALBANY, NEW YORK 12226

Name of Second Defendant: A. RIPLEY

Official Position of Defendant (if relevant): Corrections Officer NYS DOCCS
P.O. BOX 500

Address of Defendant: Elmira Corr. Facility, 1879 DAVIS ST., ELMIRA, NEW YORK
14001-0500

Name of Third Defendant: K. RAMIREZ,

Official Position of Defendant (if relevant): Correction Officer NYS DOCCS
1879 DAVIS ST, P.O. BOX 500, ELMIRA, NEW YORK 14901-0500

Address of Defendant: _____

NAME/ADDRESS OF FOURTH DEFENDANT: N. NAIDA, C.O., Elmira C.F. (above address)
NAME ADDRESS OF FIFTH DEFENDANT: LT. SCHADEWALD, Elmira Corr. Facility (above)

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes X No _____

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): JOACHIM SYLVESTER

Defendant(s): Anthony Annucci,

2. Court (if federal court, name the district; if state court, name the county): Matter of Sylvester v Annucci, 186 AD3d 1857 (Third Dept. 2020)

3. Docket or Index Number: 186 AD3d 1857 (Third Dept. 2020)

4. Name of Judge to whom case was assigned: Appellate Division, Third Department

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes No X

If not, give the approximate date it was resolved: 2020

Disposition (check those statements which apply):

Dismissed (check the statement which indicates why it was dismissed):

By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

plaintiff disciplinary TIER III annulled & expunged

defendant.

5. STATEMENT OF CLAIM

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, just tell the story of what happened and do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On (date of the incident) SEE ANNEXED ATTACHED SHEETS ONE-THREE FOR DETAILS OF DATES AND FACTS WHICH I ADOPT defendant (give the name and (if relevant) the position held of each defendant involved in this incident) COMMISSIONER ANTHONY ANNUCI, C.O.S A. RIPLEY, K. RAMIREZ, M. NAIDA, LT. SCHADEWALD, INTENTIONALLY CAUSED MY SHU CONFINEMENT AS DETAILED IN ATTACHED SHEETS ONE-THREE WHICH I ADOPT HERE

did the following to me (briefly state what each defendant named above did): SEE ATTACHED SHEETS ONE-THREE WHICH I ADOPT HERE BY REFERENCE THERETO.

The federal basis for this claim is: 42 USC §1983

State briefly exactly what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*
~~AWARD COMPENSATORY DAMAGES AT TWO HUNDRED DOLLARS PER DAY OF SHU CONFINEMENT AND ONE HUNDRED DOLLARS PUNITIVE DAMAGES PER DAY OF WRONGFUL SHU CONFINEMENT~~

B. SECOND CLAIM: On (date of the incident) SEE ANNEXED ATTACHED SHEETS ONE-THREE FOR FOR DETAILS OF DATES AND FACTS WHICH I ADOPT defendant (give the name and (if relevant) position held of each defendant involved in this incident) COMMISSIONER ANTHONY ANNUCCI, C.O.S A RIPLEY, K. RAMIREZ, N. NAIDA, LT. SCHADEWALD INTENTIONALLY CAUSED MY SHU CONFINEMENT AS DETAILED IN ATTACHED SHEETS ONE-THREE WHICH I ADOPT HERE

did the following to me (briefly state what each defendant named above did): SEE ATTACHED SHEETS ONE-THREE WHICH I ADOPT HERE BY REFERENCE THERETO

The federal basis for this claim is: 42 USC §1985(3)

State briefly exactly what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*
~~AWARD COMPENSATORYV DAMAGES AT TWO HUNDRED DOLLARS PER DAY OF SHU CONFINEMENT AND TWO HUNDRED DOLLARS PER DAY AS PUNITIVE DAMAGES FOR EACH DAY OF SHU WRONGFUL CONFINEMT~~

If you have additional claims, use the above format to set them out on additional sheets of paper.

C. THIRD CLAIM: ON (the date of the incident): SEE ATTACHED SHEETS ONE-THREE FOR DETAILS OF DATES AND FACTS WHICH I ADOPT HERE

defendant(give name and (if relevant) position held of each defendant involved in this incident): COMMISSIONER ANTHONY ANNUCCI, C.O.S A. RIPLEY, K. RAMIREZ, N. NAIDA, LT. SCHADEWALD INTENTIONALLY CAUSED MY SHU CONFINEMENT AND DEPRIVED ME OF RIGHTS TO FULL AND EQUAL BENEFIT OF THE LAW ACCORDED TO WHITE PERSONS AND THE RIGHT TO LIKE PUNISHMENT AND NO OTHER

THE FEDERAL BASIS FOR THIS CLAIM IS: 42 USC §1981(a)

STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU: grant TWO HUNDRED DOLLARS COMPENSATORY AND TWO HUNDRED DOLLARS PUNITIVE DAMAGES FOR EACH DAY OF WRONGFUL SHU CONFINEMENT

D. FOURTH CLAIM: ON (the date of the incident) SEE ATTACHED SHEETS ONE-THREE FOR DETAILS OF DATES AND FACTS WHICH I ADOPT HERE

Defendant(give name and (if relevant) position held of each defendant involved in this incident): COMMISSIONER ANTHONY ANNUCCI, C.O.S A. RIPLEY, K. RAMIREZ, N. NAIDA, LT. SCHADEWALD INTENTIONALLY CAUSED MY SHU CONFINEMENT WROGFULLY THEREBY COMMITTING INTENTIONAL TORTS ACTIONABLE UNDER NEW YORK STATE LAW

THE FEDERAL BASIS FOR THIS CLAIM IS: This Court has pendent jurisdiction over this state law claim. See United Mine Workers v Gibbs, 383 US 715, 726-727 (1966); Haywood v Drown, 556 US 729, No. 07-10374

STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU: AWARD TWO HUNDRED DOLLARS COMPENSATORY DAMAGES AND TWO HUNDRED DOLLARS PUNITIVE DAMAGES FOR EACH DAY OF WRONGFUL SHU CONFINEMENT

ASSESS AND AWARD COMPENSATORY AND PUNITIVE DAMAGES AGAINST ALL NAMED DEFENDANTS IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES AND UNDER JOINT AND SEVERAL LIABILITY ON EACH CAUSE OF ACTION SET FORTH UNDER CLAIMS ONE, TWO, THREE AND FOUR AT TWO HUNDRED DOLLARS PER DAY OF SHU WRONGFUL CONFINEMENT

ATTACHED SHEET ONE

1. By misbehavior report dated January 7, 2019, written by Corrections Officers A. Ripley and K. Ramirez of Elmira Correctional Facility (C.F.) I was charged with violating prison disciplinary rules 113.10 (possession of a weapon), 113.11 (possession of an altered item), and 113.19 (possession of excessive tobacco).

2. On January 8, 2019, my property was searched further by Correction Officer (C.O.) M. Naida of Elmira C.F. and I was issued a misbehavior report dated January 9, 2019, charging me with violating disciplinary rule 113.25 (drug possession).

3. I was not allowed to be present and watch the searches of my property on either occasion on January 7, and 8, 2019, and no security reason existed for the violation of clearly established law that required that I be present during the cell and property searches.

4. I pled NOT GUILTY to all charges and a combined disciplinary hearing (Tier III) was held on both misbehavior reports commencing on January 16, 2019, and completed on February 28, 2019, before Hearing Officer LT. SCHADEWALD of Elmira C.F..

5. Hearing Officer LT. SCHADEWALD found me guilty of all four charges and imposed sentence at 365 days SHU (Special Housing Unit) confinement, as well as 312 days loss of packages, commissary, and telephone privileges. I was also sentenced to 60 days loss of visitation.

6. I took an administrative appeal to Commissioner ANTHONY J. ANNucci of DOCCS (Department of Corrections & Community Supervision) which was denied. I brought to the attention of Hearing Officer LT. SCHADEWALD during my Tier III disciplinary hearing that my cell and property were improperly searched in my absence and that the Tier III guilt determination should be annulled and expunged, all to no avail.

7. I commenced a New York CPLR Article 78 (CPLR Article 78) proceeding during which the Appellate Division, Third Department, found that "with respect to the charges of possession of a weapon and possession of an altered item, the Attorney General Concedes, and we agree, that the findings of guilt as to those charges should be annulled and all references thereto expunged from petitioner's institutional records on the ground that petitioner was not present during all of the search before the weapon was (allegedly) found". See Matter of Sylvester v Annucci, 186 AD3d 1857 (3d Dept. 2020). The remaining charges of possession of excessive tobacco and drug possession were confirmed.

8. On November 12, 2020, my disciplinary determination was further modified to dismiss the drug charge "in the interest of fairness" due to an inconsistency in the manufacturer's instructions pertaining to the

ATTACHED SHEET TWO

testing kit.

9. During my disciplinary SHU confinement I was subjected to conditions of confinement such as: being required to spend approx. 23 hours in a cell daily with no access to commissary to buy food, cleaning materials to maintain clean cell and personal hygiene; being handcuffed when allowed to walk down a gallery for a shower which occurred only 3 times per week; not provided with any meaningful recreational activity in that only 1 hour per day of out of cell activity was permitted as part of SHU confinement; loss of 60 days of family/friends visitation; infrequent linen changes of only 1 linen change per week; infrequent cell cleaning with only 2 times per week of cell cleaning; little or no access to in cell reading materials being allowed reading materials only 1 time per week; being fed food through a cell door opening inside a unhygienic cell with foods being served in lesser amounts than those served to general population inmates; being denied almost all contact with humans.

10. I sustained severe psychological harm, humiliation and other deprivations that constitute "atypical hardship" singly and or combined.

11. The Corrections Officials and defendants C.O.s A. RIPLEY, K. RAMIREZ, M. NAIDA, LT. SCHEDEWALD, ANTHONY ANNucci were all fully aware that I am an AFRICAN-AMERICAN & FORMER POLICE OFFICER.

12. The Defendants sought to and did deprive me of equal protection of the laws and subjected me to atypical hardship by causing and condoning my SHU confinement.

13. The Defendants actions were based on discriminatory, class-based, and or racial animus.

14. Defendants' acts are actionable under 42 U.S.C. §§ 1985(3), 1983, 1981(a) and under New York State law. See *Brown v State of New York*, 89 NY2d 172, 652 NYS2d 223 (1996) (holding that New York State Constitution and Section 874A of the Restatement (Second) of Torts provide basis for a court to imply a civil remedy from legislation or constitutional provisions); see also *Haywood v Drown*, 556 US ___, No. 07-10374 (New York Statute found "contrary to Congress' judgment that all persons who violate federal rights while acting under color of state law shall be held liable for damages")

15. Federal courts also have pendent jurisdiction to decide federal constitutional and state law claims arising out of the same nucleus of facts as here. See *Mine Workers v Gibbs*, 383 US 715, 726 727 (1966)

16. Prison inmates are entitled to "certain procedural protections when disciplinary actions subject them to further liberty deprivations such as loss of good time credit or special confinement that impose an atypical hardship." *Sira v Morton*, 380 F.3d 57, 69 (2d Cir. 2005)

17. A liberty interest may arise from the Constitution itself... or it may arise from an expectation or interest created by state laws or policies. *Wilkinson v Austin*, 545 US 209, 221 (2005)

ATTACHED SHEET THREE

18. Plaintiff here asserts that he has a liberty interest based on the Constitution itself and based on an expectation or interest created by state laws or policies.

19. The failure to allow plaintiff to observe his cell/property search was a violation of New York State's DOCCS Directive 4910 and required annulment and expungement of the disciplinary determination. See Matter of Sylverter v Annucci, *supra*, 186 AD3d 1857 (3d Dept. 2020); Matter of Holloway v Lacey, 263 AD2d 765 (3d Dept. 2001). And, a period of confinement between "0101 and 305 days is considered to be an 'intermediated duration and could implicate a liberty interest should a detailed record of the conditions of confinement indicate that it was an atypical and significant hardship" See Sealey v Giltner, 197 F.3d 578, 589 (2d Cir. 1999); Welch v Bartlett, 196 F.3d 389, 394 (2d Cir. 1999).

20. My SHU confinement was 365 days SHU, 312 loss of packages, commissary/telephone privileges, 60 days loss of visitation. The combined effect of the punishment and conditions of confinement resulted in an atypical and significant harshship.

21. In Welch v Bartlett, *supra*, 196 F.3d 389, 394 n. 4 (2d Cir. 1999) the Second Circuit made clear that "Hewitt (v Helms, 459 US 460 (1983)) as modified by Sandin's additional requirement of an 'atypical and significant hardship', remains good law in analyzing whether statutory or regulatory tests can generate a liberty interest"

6. SUMMARY OF RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

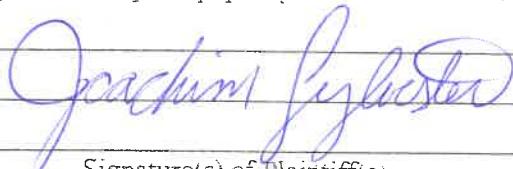
ASSESS AND AWARD COMPENSATORY AND PUNITIVE DAMAGES AGAINST ALL NAMED DEFENDANTS IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES AND JOINTLY AND SEVERALLY ON EACH CAUSE OF ACTION AT TWO HUNDRED DOLLARS PER DAY OF MY WRONGFUL SHU CONFINEMENT: SEE HAYWOOD V DROWN, 556 US 729; BROWN V STATE OF NEW YORK, 89 NY2d 172, 652 NYS2d 223 (1996); UNITED MINE WORKERS V GIBBS, 383 US 715, 726-727 (1966) (CITED AT ATTACHED SHEET TWO, PARAGRAPHS 14-15 THEREOF AND OTHER CASES CITED PASSIM)

Do you want a jury trial? Yes xxx No

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 24 2021
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*



Signature(s) of Plaintiff(s)
JOACHIM SYLVESTER
1818 Niagara Avenue
Niagara Falls, New York 14305

CIVIL COVER SHEET

22 CV 0151-V

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOACHIM SYLVESTER

(b) County of Residence of First Listed Plaintiff NIAGARA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

JOACHIM SYLVESTER (PRO SE)
1818 NIAGARA AVENUE

NIAGARA FALLS, NEW YORK 14305

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties at Item III)

DEFENDANTS ANTHONY ANNUCCI; A. RIPLEY; K. RAMIREZ; N. NAIDA; LT. SCHADEWALD

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 2
Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5

Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Ac:	<input type="checkbox"/> 315 Airplane Products Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Product Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers Liability	<input type="checkbox"/> 369 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Products Liability			<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contracts	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 385 Proprietary Damage Product Liability		<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 463 Habeas Corpus	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 465 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing Accommodations	<input type="checkbox"/> 520 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 540 Mandamus & Other		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
FEDERAL TAX SUITS				
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
IMMIGRATION				
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

: 42 USC 1983, 1985(3), 1981(a) civil rights action

Brief description of cause: to recover damages for civil rights violations

VI. CAUSE OF ACTION

: 42 USC 1983, 1985(3), 1981(a) civil rights action

Brief description of cause: to recover damages for civil rights violations

DEMAND \$ CHECK YES only if demanded in complaint.

JURY DEMAND: Yes NoCOMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.V.P.JURY DEMAND: Yes NoVII. REQUESTED IN COMPLAINT: SYLVESTER V ANNUCCI, 186 AD 3d 1857 (3d Dept. 2020)

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE DOCKET NUMBER

DATE: January 24, 2022 SIGNATURE OF ATTORNEY OF RECORD: *Joachim Sylvester Pro Se*

FOR OFFICE USE ONLY: RECEIPT # AMOUNT APPLYING IFF JUDGE LJV MAG. JUDGE

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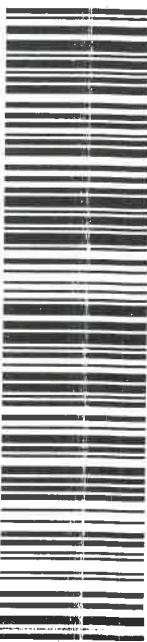
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Niagara Falls, NY 14205

FEB 22 2022

BUFFALO

TO:
Clerk, U.S. District Court
United States Courthouse
2 Niagara Square
Buffalo, NY 14202